

REMARKS

Applicant submits this Reply in response to the final Office Action mailed March 30, 2011. Claims 1-26 are pending in this application, of which claims 10, 12, 13, and 15-26 have been withdrawn from consideration. Thus, claims 1-9, 11, and 14 are submitted for examination on the merits, of which claim 1 is the sole independent claim. By this Reply, Applicant proposes amending claim 1. No new matter would be added.

In the final Office Action, the Examiner rejected claims 1-9, 11, and 14 under 35 U.S.C. § 112, first paragraph; rejected claims 1-9, 11, and 14 under 35 U.S.C. § 112, second paragraph; rejected claims 1 and 8 under 35 U.S.C. § 102(b) as being anticipated by GB 2,033,881 ("Harris"); rejected claims 1-5, 8, 11, and 14 under 35 U.S.C. § 103(a) as being unpatentable over Harris in view of U.S. Pat. No. 6,817,474 ("Ikeda") and U.S. Patent No. 4,448,680 ("Wilks"); rejected claims 6 and 7 under 35 U.S.C. § 103(a) as being unpatentable over Harris in view of Ikeda and Wilks, and further in view of U.S. Pat. No. 6,540,088 ("Oder"); and rejected claim 9 under 35 U.S.C. § 103(a) as being unpatentable over Harris in view of Ikeda and Wilks, and further in view of U.S. Pat. No. 4,631,124 ("Paulson").

Applicant respectfully traverses all pending rejections for at least the reasons discussed below.

Rejections Under 35 U.S.C. § 112, First and Second Paragraphs

The Examiner rejected claims 1-9, 11, and 14 under 35 U.S.C. § 112, first and second paragraphs, as failing to comply with the enablement requirement and being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Specifically, the Examiner asserts that the phrase

“using a mechanical sorting device,” as recited in independent claim 1, is not properly enabled in the specification and is indefinite. See Final Office Action at 2-3.

Applicant respectfully disagrees with the Examiner’s assertion regarding claim 1. However, by this Amendment, Applicant has replaced the phrase “mechanical sorting device” with “pellet sorter” in independent claim 1 in order to expedite issuance of a Notice of Allowance for this application. Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 1-9, 11, and 14 under § 112, first and second paragraphs.

Rejection Under 35 U.S.C. § 102

Applicant respectfully traverses the rejection of claims 1 and 8 under 35 U.S.C. § 102(b) as being anticipated by Harris. In order to properly establish that Harris anticipates Applicant’s claimed invention under 35 U.S.C. § 102, every element of the claims in issue must be found, either expressly or described under principles of inherency, in that single reference. Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the . . . claim.” See M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1126, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989).

Harris fails to disclose every element of Applicant’s claims. Although Applicant does not necessarily believe the § 102(b) rejection of claims 1 and 8 is proper, Applicant has amended independent claim 1 to further distinguish it from Harris in order to expedite issuance of a Notice of Allowance for this application. Amended independent claim 1 recites, in part, “removing, using a deduster, a portion of the loose particles from the batch[; and] detecting in the batch the defective pellets and additional

loose contaminants using a pellet sorter . . . , wherein the deduster and the pellet sorter are coupled to one another by a chute comprising a cover.” Support for the amendments to claim 1 can be found in Applicant’s specification at least at paragraphs [028]-[029], [048]-[051], and Fig. 2. Harris nowhere appears to disclose or render obvious such features.

The Examiner asserts, “Harris teaches . . . removing a portion of the loose particles from the batch [using extending chute 16 for] removal of dust and grit from products to be sorted.” Final Office Action at 4. The Examiner further asserts that Harris teaches “detecting in the batch the defective pellets and additional loose contaminants” using a combination of light sensors 24 and a pneumatic ejector 28. See id. However, even assuming, *arguendo*, that the Examiner’s interpretation of Harris is accurate, nowhere does Harris disclose that the chute 16, asserted as corresponding to Applicant’s claimed deduster, and the light sensors 24 or pneumatic ejector 28, asserted as corresponding to Applicant’s claimed pellet sorter, are “coupled to one another,” let alone “coupled to one another by a chute comprising a cover,” as recited in amended independent claim 1. In fact, Figure 1 of Harris clearly depicts light sensors 24 and ejector 28 being entirely separate from chute 16.

Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of amended independent claim 1 based on Harris under 35 U.S.C. § 102. Moreover, claim 8 depends from independent claim 1, and thus, contains all the elements and limitations thereof. As a result, dependent claim 8 is allowable at least due to its corresponding dependence from independent claim 1.

Rejections Under 35 U.S.C. § 103(a)

Applying 35 U.S.C. § 103(a), the Examiner rejected claims 1-9, 11, and 14 as set forth above. However, a *prima facie* case of obviousness, a requirement of which is discussed below, has not been established for each amended claim for at least the following reasons.

To establish a *prima facie* case of obviousness, the prior art reference (or references when combined) must disclose all of the claim limitations, or the claim rejection must explain why the differences between the prior art and the claim limitations would have been obvious to one of ordinary skill in the art. See M.P.E.P. § 2141.

A *prima facie* case of obviousness has not been established because, among other things, Harris, Ikeda, Wilks, Oder, and Paulson, alone or in any combination, fail to teach or render obvious every feature of Applicant's amended claims. Applicant has already established in the previous section that Harris fails to teach at least, "wherein the deduster and the pellet sorter are coupled to one another by a chute comprising a cover," as recited in amended independent claim 1. The Examiner's additional citation of Ikeda, Wilks, Oder, and Paulson fails to cure at least this deficiency of Harris, as Ikeda, Wilks, Oder, and Paulson similarly fail to teach or render obvious, "wherein the deduster and the pellet sorter are coupled to one another by a chute comprising a cover." For example, Ikeda and Wilks, at Figures 1 and 1A, respectively, depict an initial sorting device being entirely separate from a later second sorting device.

Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of amended independent claim 1 under 35 U.S.C. § 103(a) based on any combination of Harris, Ikeda, Wilks, Oder, and Paulson. Moreover, claims 2-9, 11, and 14 each depend from amended independent claim 1, and thus, contain all the

elements and limitations thereof. As a result, Applicant similarly requests that the Examiner reconsider and withdraw the rejections of claims 2-9, 11, and 14 under 35 U.S.C. § 103(a).

In addition, withdrawn claims 10, 12, 13, and 15 depend from allowable independent claim 1. Thus, claims 10, 12, 13, and 15 should be allowable for at least the same reasons as independent claim 1. Therefore, Applicant respectfully requests rejoinder and allowance of claims 10, 12, 13, and 15.

Claim Scope

It is to be understood that Applicant is in no way intending to limit the scope of the claims to any exemplary embodiments described in the specification or abstract and/or shown in the drawings. Rather, Applicant believes that he is entitled to have the claims interpreted broadly, to the maximum extent permitted by statute, regulation, and applicable case law.

CONCLUSION

Applicant respectfully requests that this Amendment After Final under 37 C.F.R. § 1.116 be entered by the Examiner. Applicant submits that the proposed amendments to claim 1 do not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner. Furthermore, Applicant respectfully points out that the final Office Action presented new assertions relating to how the cited references purportedly render the claims of the present application obvious. Applicant respectfully submits that entry of the proposed amendments would provide Applicant with an opportunity to respond to those assertions and show at least some of the reasons the application is in condition for allowance.

Finally, Applicant respectfully submits that entry of the proposed amendments would place the application in better form for appeal, should the Examiner continue to dispute the patentability of the pending claims.

In view of the foregoing remarks, Applicant submits that the claims are neither anticipated nor rendered obvious in view of the prior art references cited against this application. Applicant therefore requests the entry of the proposed amendments, the Examiner's reconsideration and reexamination of the application, and the timely allowance of the pending claims.

If the Examiner believes that a telephone conversation might advance prosecution of this application, the Examiner is cordially invited to call Applicant's undersigned attorney at (404) 653-6435.

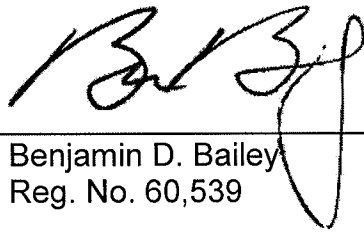
Applicant respectfully submits that the final Office Action contains a number of assertions concerning the related art and the claims. Regardless of whether those assertions are addressed specifically herein, Applicant respectfully declines to automatically subscribe to them.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: July 13, 2011

By: 
Benjamin D. Bailey
Reg. No. 60,539